IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.317 OF 2006
IN
FIRST APPEAL NO.2056 OF 2005
IN
SPECIAL CIVIL SUIT NO.377 OF 2004

Sou.Vithabai Vasant Patil ...Petitioner

Versus

Jaywant Sukur Vaity & Ors. ...Respondents

.....

Mr.R.D.Suryawanshi for Petitioner.

Mr.Deepak C.Nair i/b Mr.M.D.Parab for Respondents 1 & 3.

Mr.Rahul S.Kate for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

JANUARY 8, 2007.

P.C.

1. The grievance made in this Petition is essentially regarding disobedience of the order passed by the Trial Court below Exhibit 5, which order has been confirmed right up to this Court in Appeal from Order No.939 of 2004.

2. In my opinion, it is open to the

Petitioner to take recourse to remedy provided under Order XXXIX of the Code of Civil Procedure for appropriate relief. As that remedy is available, it is unnecessary to exercise contempt jurisdiction by this Court. Hence, while disposing of this Petition for the aforesaid reason, liberty is given to the Petitioner to take recourse to appropriate remedy, as may be permissible by law, which will have to be decided on its own merits uninfluenced by the disposal of this Petition. All questions are left open. Ordered accordingly.

A.M.KHANWILKAR, J.